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Individual Retirement Account, Burt Moss &
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Moss, Ten Ent*

Hearing Date: October 19, 2010

Hearing Time: 10:00 AM

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES INVESTOR PROTECTION
CORPORATION,**

Plaintiff,

vs.

**BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,**

Defendant.

Adv. Pro. No. 08-01789 (BRL)

**SIPA Liquidation
(Substantively Consolidated)**

**CLAIMANTS BURTON HAROLD MOSS INDIVIDUAL RETIREMENT ACCOUNT,
BURT MOSS & ASSOCIATES, INC. 401K PLAN, AND BURT & SUSAN MOSS, TEN
ENT'S MEMORANDUM IN OPPOSITION TO TRUSTEE'S MOTION FOR AN ORDER
TO AFFIRM TRUSTEE'S DETERMINATIONS DENYING CLAIMS OF CLAIMANTS
WITHOUT BLMIS ACCOUNTS IN THEIR NAMES, NAMELY, INVESTORS IN
FEEDER FUNDS**

Pursuant to the Court's Order dated April 13, 2010 (the "Order") [docket no. 2205] Claimants Burton Harold Moss Individual Retirement Account (the "IRA Account"), Burt Moss & Associates, Inc. 401K Plan (the "401K Plan Account"), and Burt & Susan Moss, Ten Ent the "T by E Account") (collectively referred to herein as the "Claimants"), by and through their undersigned counsel, hereby submits this Opposition to Trustee's Motion for An Order to Affirm Trustee's Determinations Denying Claims of Claimants Without BLMIS Accounts In Their Names, Namely, Investors In Feeder Funds [docket no. 2416], and the memoranda filed by the Trustee and by SIPC

in support of the same [docket nos. 2411 and 2414, respectively].

The Claimants are “Objecting Claimants” as defined in the Order. The Claimants filed their objections to the Trustee’s denial of their claims on the basis that the Claimants did not have account at BLMIS (the “Objection”) [docket no. 1228].

The Trustee’s determination that the Claimants are not a “customer” under SIPC because it did not have accounts in their names at BLMIS is erroneous for the reasons set forth in the Claimants’ Objection. In the interest of preserving judicial resources, the Claimants hereby incorporate by reference as if fully restated herein the arguments set forth in the Objection as to why the Claimants should be treated as customers under SIPA [docket no. 1228]. The Claimants also hereby join and incorporate by reference as if fully restated herein the arguments and authority cited in the objections and oppositions filed on behalf of all similarly situated Objecting Claimants as to why the Trustee’s determination on the customer issue is erroneous.

Dated: July 12, 2010
Boca Raton, Florida

Respectfully submitted,

s/Carl F. Schoeppl, Esq.

Carl F. Schoeppl, Esq. (7917)

*Counsel for Claimants Burton Harold Moss
Individual Retirement Account, Burt Moss &
Associates, Inc. 401K Plan, and Burt & Susan
Moss, Ten Ent*

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served in the manner provided upon the persons listed below on this 12th day of July, 2010.

s/Carl F. Schoeppl, Esq._____

Carl F. Schoeppl, Esq. (7917)

Counsel for Claimants Burton Harold Moss
Individual Retirement Account, Burt Moss &
Associates, Inc. 401K Plan, and Burt & Susan
Moss, Ten Ent

Party	Method of Service	Name, Address, Telephone, and Facsimile of Party's Counsel
Irving H. Picard, Trustee for the Liquidation of the Business of Bernard L. Madoff Investment Securities LLC	CM/ECF and Federal Express Overnight	Irving H. Picard, Trustee c/o Baker & Hostetler LLP Attn: Claims Department 45 Rockefeller Plaza New York, New York 10111 Telephone (561) 668-5663

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